

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THURMAN MERION,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 11-571
)	Magistrate Judge Maureen P. Kelly
)	
LOUIS FOLINO, Superintendent,)	
ROBERT B. MACINTYRE, Chief Hearing)	ECF No. 87
Examiner, F. NUNEX, Hearing Examiner,)	
SUSAN COWAN, Program Review)	
Committee, ROBERT DIETZ, Program)	
Review Committee, Mike Ivan, Program)	
Review Committee, MAJOT LORINDA)	
WINFILED, LT. E. GREGO, LT. ROBERT)	
L. KENNEDY, LT. S.P. DURCO,)	
WALLACE DITTSWORTH, Food)	
Manager, CARLA SWARTZ, Unit)	
Manager, PAUL PALYA, Unit Manager,)	
DORINDA VARNER, Chief Grievance)	
Officer, M. DIALESANDOR, Program)	
Review Committee, DR. YANAKS,)	
Psychologist, DAN DAVIS, Assistant)	
Superintendent, SGT. YOUNKIN, R.H.U.,)	
COL. WILCHER, R.H.U., COL.)	
MARTAIN, R.H.U., COL. GIFFORD,)	
R.H.U., COL. MOORE, COL.)	
HARKLEROAD, LT. D. MITCHELL,)	
COL. W. SHAWLEY. R.H.U., COL.)	
KNIGHT, R.H.U., COL. BARCHIESI,)	
R.H.U., COL. A. SHAWLEY, R.H.U,)	
PETE VIDONISH, Unit Manager, Program)	
Review Com.)	
Defendants.)	

ORDER

Plaintiff, Thurman Mearin, an inmate at the State Correctional Institution at Greene ("SCIG"), has presented a civil rights complaint alleging that Defendants violated his rights under the First, Eighth and Fourteenth Amendments to the United States Constitution.

On June 13, 2012, Plaintiff file a Motion for Appointment of Counsel pursuant to 28 U.S.C. § 1915(e)(1). [ECF No. 58]. On June 19, 2012, noting that Section 1915 governs "Proceedings in forma pauperis" and allows the court to "request an attorney to represent any person unable to afford counsel," 28 U.S.C. § 1915e(1), the Court denied Plaintiff's Motion since Plaintiff, who had paid the requisite filing fee of \$350.00 in full without requesting leave to proceed *in forma pauperis*, was not proceeding in this litigation as a pauper. [ECF No. 59]. The Court also noted that Plaintiff had not alleged or presented any facts or evidence to suggest that he is unable to afford counsel. Id.

Plaintiff has now filed a Motion for Reconsideration of The Court's Order Entered June 19, 2012 Denying Motion for Appointment of Counsel. [ECF No. 87]. To support his Motion, Plaintiff has submitted his Monthly Account Statements from January 2012 through May 2012, which purportedly indicate that Plaintiff's monthly income is \$15.00. [Id. at pp. 3-7]. Having presented the Court with "evidence that he has no money," Plaintiff asks the Court to reconsider its earlier decision and appoint counsel.

The difficulty with Plaintiff's argument, however, is that the Court denied Plaintiff's Motion to Appoint Counsel because he paid the requisite \$350.00 filing fee and was not proceeding *in forma pauperis*. As such, 28 U.S.C. § 1915e(1) is inapplicable to his case. Fulton v. U.S., 198 F. App'x 210, 214 (3d Cir. 2006) (finding that the District Court did not err in denying the plaintiff's request for the appointment of counsel when he had not received IFP status). See Iseley v. Beard, 237 F. App'x 735, 739 (3d Cir. 2007), citing Grayson v. Mayview State Hospital, 293 F.3d 103, 109-10 n. 10 (3d Cir. 2002) ("section 1915(e)(2) only applies to litigants proceeding *in forma pauperis*). Plaintiff's evidence showing that he has limited funds does not change his status and does not provide the basis for altering the Court's previous ruling.

Accordingly, the following Order is entered:

AND NOW, this 1st day of November, 2012, IT IS HEREBY ORDERED that Plaintiff's Motion for Reconsideration of The Court's Order Entered June 19, 2012 Denying Motion for Appointment of Counsel, ECF No. 87, is DENIED.

BY THE COURT:

/s/ Maureen P. Kelly
MAUREEN P. KELLY
UNITED STATES MAGISTRATE JUDGE

cc: Thurman Merion
AM8063
SCI Greene
175 Progress Drive
Waynesburg, PA 15370

All counsel of record via CM/ECF